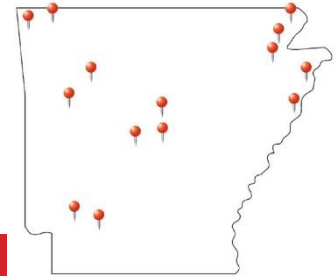




ARKANSAS MUNICIPAL
POWER ASSOCIATION



September 25, 2018

VIA ELECTRONIC FILING

Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Secretary Dortch,

The Arkansas Municipal Power Association (“AMPA”) represents fourteen (14) municipalities providing electric service to their citizens. AMPA opposes any FCC action on the above referenced proceedings that would eliminate local control on matters involving access to public right-of-way (ROW), access to municipal property in and out of the ROW, permitting, and related timelines and fees. AMPA is particularly concerned about the recent draft order that would compromise the safety, security, and reliability of critical electrical infrastructure, by limiting the ability of municipal utility staff to manage and maintain their ROWs and distribution infrastructure. AMPA is proud to join numerous communities across the nation in opposing the proposed FCC order and urging protection of local governments' right to be the stewards of our local public assets.

The proposed FCC order undermines the sound discretion of local government officials.

AMPA supports the deployment of 5G technology. Local leaders in Arkansas are fully aware of the economic, social, educational and entertainment benefits that citizens enjoy from increased connectivity. They discuss it in public meetings and in their daily interactions with citizens they serve. It is for this very reason that Arkansas cities have collaborated to establish a predictable framework for small cell deployment that would preserve local values and avoid the subsidization of private business that is prohibited by the Arkansas Constitution. The proposed FCC order undermines these efforts and throws this well-balanced work into disarray.

It supplants the judgment of locally elected officials with that of an unelected federal agency. I urge you to oppose it.

Shot clocks and application fee caps are unreasonable.

Every city is different. Some cities have robust engineering departments that can easily process permit applications within the proposed sixty (60) day processing standard without difficulty. Conversely, other cities lack the financial resources to achieve this standard. It is inappropriate for the FCC to substitute its judgment for that of local governing bodies in allocating revenues and employing personnel to review small cell permit applications. Moreover, the application fees described in the proposed FCC order are insufficient to perform the work necessary to review a permit. For each installation, city staff must inspect the proposed site, review proposed schematics, validate design standards, check pole loading calculations, verify electrical load and available electric service, ensure contractor qualifications, calculate make-ready pricing, process payments, track permits and perform final inspections. This requires many hours of work. It is unreasonable for the FCC to establish specific deadlines and application fees to apply to every small cell installation, simple or complex, in every city, large or small. AMPA supports 5G technology and asserts that our member cities can establish reasonable permit processing standards and application fees without assistance from the FCC.

Cost-based fees are not fair and reasonable.

The proposed FCC order summarily dismisses market-based compensation standards for local government that have served our nation for over a century. Local governments are the custodians and caretakers of ROWs within their respective jurisdictions, along with facilities built in the ROW that serve the public. Historically, local governments receive revenue in the form of franchise fees from service providers who would rather build in the public ROW than purchase their own easements. These franchise fees are typically based on market revenues of the service providers, rather than cost-share of ROW maintenance, and passed directly to consumers. Local governments use franchise fees for a host of purposes that directly and indirectly benefit the service providers. The process works.

The proposed FCC order replaces the payment of a franchise fee with a ROW fee that, when combined with attachment fees, is capped at approximately \$270 per site. This rate would apply when attaching to any public structure in the ROW. For some sites, the fee might be generous. For others, the city could be deprived of fair compensation, resulting in the unlawful subsidization of private business at tax-payer expense. The proposed FCC order improperly attempts to standardize costs among installations that are dramatically different. Local government is situated far better than the FCC to assign appropriate ROW and attachment fees.

The proposed definition of effective prohibition is too broad.

The proposed FCC order defines “effective prohibition” in a way that invites challenges to long-standing local ROW requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding.

The adoption timeline for this proposed rule is unreasonable.

In a media release on September 5, 2018, the FCC announced the intent to proceed to a vote on the proposed FCC wireless infrastructure order on September 26, 2018. The intervening three-week gap is inadequate to thoroughly review, examine and comment upon such a dramatic shift in rulemaking. Furthermore, for over a year, the FCC's Broadband Deployment Advisory Committee (BDAC) has worked to develop model codes, rates and fees. Now, in the midst of their work, the FCC proposes to disregard all progress and proceed with a vote that caters to the wireless industry at the expense of local government. I urge you to seek an alternate path that partners with local government, respects local authority and grants consideration for cities that have negotiated fairly with wireless service providers.

I appreciate your consideration of my comments. I urge you to oppose this declaratory ruling.

Respectfully,

A handwritten signature in black ink, appearing to read "C. Jason Carter". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

C. Jason Carter
General Counsel